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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of : **Confirmation No. 9408**
Hiroki SATO et al. : Docket No. 2002-0348A
Serial No. 10/089,448 : Group Art Unit 1645
Filed July 19, 2002 : Examiner Vanessa L. Ford

INOCULATING AGENT, SPAWNED
INSECT AND METHOD OF
PRODUCING FRUIT BODIES OF
ENTOMOPATHOGENIC FUNGI

RESPONSE

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action of April 5, 2004, constituting a requirement for restriction among (I) claim 1, (II) claims 2-3, (III) claim 4 and (IV) claims 5-12, Applicants hereby elect, with traverse, the subject matter of claim 4.

Applicants emphasize that this election is made while reserving their rights under 35 U.S.C. §121 to file a divisional application for the non-elected subject matter of claims 1-3, and 5-12.

Traversal of the restriction requirement is based on the following considerations.

The Examiner states that the inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding technical features, and consequently, lack unity of invention.

However, to the contrary, the International Preliminary Examination Report, a translation of which is of record, acknowledges the unity of invention for all of original claims 1-8 of the PCT application as filed. Since new claims 7-12 of the present application correspond to original claims

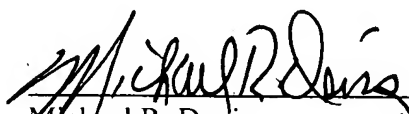
7 and 8, Applicants take the position that all of claims 1-12 in the present application have unity of invention.

For these reasons, Applicants respectfully submit that the restriction requirement should be withdrawn.

Action on the merits is requested.

Respectfully submitted,

Hiroki SATO et al.

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